

AUGUST 11, 2011

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTIN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISIONIRA ROBB, Individually and as General Partner
of IRACINI EQUITY LP, EDWARD LESHIN,
and LEONARD and KIMBERLY ALMALECH,
as Co-Trustees of the ALMALECH LIVING
TRUST,

Petitioners,

v.

NEUBERGER BERMAN LLC and BRIAN
HAHN,

Respondents.

No. 11-cv-4804

Judge Blanche M. Manning

Magistrate Judge Sidney I. Schenkier

NEUBERGER BERMAN LLC, JOSEPH
VINCENT AMATO, BRADLEY CURTIS
TANK, EDWARD STEPHEN GRIEB, BRAD
ELLIOTT CETRON, and BRIAN HAHN,

Cross-Petitioners,

v.

FINANCIAL INDUSTRY REGULATORY
AUTHORITY, INC., IRA ROBB, Individually
and as General Partner of IRACINI EQUITY LP,
and as beneficiary of the IRA ROBB
ROLLOVER IRA, EDWARD W. LESHIN,
Individually and as beneficiary of the EDWARD
W. LESHIN ROLLOVER IRA, and LEONARD
and KIMBERLY ALMALECH, Individually and
as Co-Trustees of the ALMALECH LIVING
TRUST,

Cross-Respondents.

CROSS-PETITION TO CONFIRM ARBITRATION AWARD

Cross-Petitioners, Neuberger Berman LLC ("Neuberger"), Joseph Vincent Amato

("Amato"), Bradley Curtis Tank ("Tank"), Edward Stephen Grieb ("Grieb"), Brad Elliot Cetron

("Cetron") and Brian Hahn ("Hahn") (collectively, "Cross-Petitioners"), hereby petition this Court, pursuant to the Federal Arbitration Act ("FAA"), 9 U.S.C. § 9,¹ to recognize and confirm as a judgment of this Court the award (the "Award") rendered by a duly constituted panel of arbitrators (the "Panel") on July 15, 2011 in *Ira Robb, et al. v. Neuberger Berman, LLC, et al.*, FINRA Arb. No. 10-2252 (the "Arbitration"). A true and correct copy of the Award is attached hereto as Exhibit 1.

In support of this Petition, Cross-Petitioners respectfully state as follows:

THE PARTIES

1. Cross-Petitioner Neuberger is a Delaware corporation with its principal place of business in New York, New York.
2. Cross-Petitioner Amato is an individual, residing in New York, New York.
3. Cross-Petitioner Tank is an individual, residing in New York, New York.
4. Cross-Petitioner Grieb is an individual, residing in Chicago, Illinois.
5. Cross-Petitioner Cetron is an individual, residing in New York, New York.
6. Cross-Petitioner Hahn is an individual, residing in Chicago, Illinois.
7. Cross-Respondent Financial Industry Regulatory Authority, Inc. ("FINRA") is a Delaware corporation with offices in Chicago, Illinois and its principal place of business in Washington D.C.
8. Cross-Respondent Ira Robb ("Robb") is an individual, residing in Rancho Santa Fe, California.

¹ Section 6 of the Federal Arbitration Act, 9 U.S.C. § 6, provides that "Any application to the court [under the FAA] shall be made and heard in the manner provided by law for the making and hearing motions, except as otherwise herein expressly provided." Accordingly, this petition should be treated as a motion, rather than a pleading. *See Health Servs. Mgmt. Corp. v. Hughes*, 975 F.2d 1253, 1258 (7th Cir. 1992).

9. Cross-Respondent Edward Leshin ("Leshin") is an individual, residing in Chicago, Illinois.

10. Cross-Respondents Leonard and Kimberly Almalech ("Almalech") are individuals, residing in Saratoga, California.

JURISDICTION AND VENUE

11. This proceeding arises under, *inter alia*, the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968 and Section 10b of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a to 78oo (the "Exchange Act"). Accordingly, this Court has jurisdiction pursuant to 28 U.S.C. § 1331.

12. Venue is appropriate in this Court pursuant to 9 U.S.C. § 9, 28 U.S.C. § 1391, FINRA rules and the parties' arbitration agreements (the "Agreements"). The Agreements are attached hereto as Exhibits 2-4.

FACTS

13. Robb, Leshin and Almalech filed the Arbitration on May 11, 2010 pursuant to arbitration provisions contained in the Agreements and FINRA Rule 12201.

14. Hearings were held by the Panel during the weeks of May 16, 2011 and May 23, 2011 in Chicago, Illinois.

15. On July 15, 2011, the Panel issued its Award.

16. The Panel awarded Robb, Leshin and Almalech damages and certain other relief on condition they transfer certain securities to Neuberger.

17. The Panel denied and dismissed with prejudice the claims against Amato, Tank, Grieb and Cetron. In addition, the Panel recommended expungement of all references to

the Arbitration from the Central Registration Depository ("CRD") records of Amato, Tank and Grieb.

18. Pursuant to FINRA Rule 2080, expungement of references to arbitrations from CRD records can be accomplished only by issuance of an order by a court of competent jurisdiction confirming an arbitration award recommending expungement relief. Pursuant to FINRA Rule 2130, FINRA must be named a party in any judicial proceeding in which a party seeks expungement, absent waiver by FINRA of this requirement. Cross-Petitioners have not requested waiver and FINRA has not provided one.

CONFIRMATION OF AWARD

19. Section 9 of the FAA, 9 U.S.C. § 9, provides:

If the parties in their agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title. If no court is specified in the agreement of the parties, then such application may be made to the United States court in and for the district within which such award was made. Notice of the application shall be served upon the adverse party, and thereupon the court shall have jurisdiction of such party as though he had appeared generally in the proceeding.

20. Here, FINRA Rule 12805, FINRA Rule 2080 and the Agreements provide that a judgment of the court shall be entered upon the award made pursuant to the Arbitration. *See Daihatsu Motor Co., Ltd. v. Terrain Vehicles, Inc.*, 13 F.3d 196, 200 (7th Cir. 1993); Ex. 2 at ¶ 8; Ex. 3 at ¶ 14; Ex. 4 at ¶ 8; FINRA Rules 2080, 12805.

21. The FINRA Rules and Agreements do not specify the court in which a judgment upon an award will be made. The Award was made in the Northern District of Illinois.

22. Notice of this application has been served upon all Cross-Respondents.

WHEREFORE, Cross-Petitioners request that the Court enter a judgment order confirming the Award.

Dated: Chicago, Illinois
July 25, 2011

Respectfully submitted,

/s/ Matthew R. Kipp

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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Cross-Petition to Confirm Arbitration Award to be served by causing copies to be addressed to the following persons with delivery as set forth on the attached Service List on July 25, 2011.

Dated: July 25, 2011

/s/ Matthew R. Kipp

Attorney for Cross-Petitioners

SERVICE LIST

VIA THE COURT'S CM/ECF SYSTEM

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VIA OVERNIGHT COURIER

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